

REMARKS

1. The Amendments and the Support Therefor

Claims 7, 12 and 13 are canceled, four new claims (claim 22-25) have been added, and claims 1, 8, and 15 have been amended to leave claims 1-6, 8-11, 15-18, and 20-25 in the application.

New claim 22 finds support in claims 8 and 15.

New claims 23-25 are directed to the "thin" enclosure design depicted in Fig. 2 of the application, wherein the height of the enclosure is its smallest dimension.

2. Rejection of Claims 1-3, 8, and 15-21 under 35 USC §102 in view of U.S. Patent 3,789,953 to Everitt

Everitt describes an enclosure made of nested members 20, 30, and 40 (Fig. 3, see column 2 line 62-column 3 line 13) wherein the outermost member 40 (depicted in Fig. 3 with top and bottom walls 41 and 42, see column 3 line 61-column 4 line 6) defines what may be regarded as a peripheral edge for the interior of the enclosure. A baffle board 50 (Figs. 2 and 3, see column 5 lines 43-68) is fit within member 40 in front of member 30, and a grille cloth 55 (Figs. 2 and 3, see column 5 lines 56-63) is stretched over the baffle board 50 and its peripheral edges; note particularly Fig. 2.

Claim 1 is therefore plainly not anticipated by *Everitt* since *Everitt*'s grill is not situated upon, and does not extend across, the peripheral edge of the *backbox*, as recited in clause (a) of claim 1, nor does the *Everitt* backbox rest entirely to one side of the grill. Rather, *Everitt*'s grill rests entirely within *Everitt*'s backbox (and its peripheral edge), with portions of the backbox extending adjacent opposing sides of the grill. Note particularly in Fig. 2 how *Everitt*'s peripheral edge extends beyond the front/exterior surface of the grill, with the major portion of the backbox extending behind the rear/interior surface of the grill.

Similarly, claims 8 and 15 are plainly not anticipated by *Everitt* since the *Everitt* grill is not resting upon and crimped about the peripheral edge of the backbox as recited in clause (b) of claim 8 and clause (d) of claim 15. *Everitt*'s grill is crimped about the baffle board 50 within the

backbox, rather than the peripheral edge of the backbox. This same reasoning holds for claim 3 as well.

Further, *Everitt*'s speaker is not affixed to the grill, as recited in clause (c) of claim 8 and clause (d) of claim 15 (and in new claim 22 as well). Instead, *Everitt*'s speaker is affixed to the baffle board 50 (see *Everitt* at column 6 lines 51-58).

The new claims 23-25 are also not anticipated by *Everitt*, which (as seen in Fig. 2) has a very substantial depth (as measured from the grill to the rear of the backbox) in comparison to at least the width of the grill (as best seen in Fig. 1).

In summary, anticipation under 35 U.S.C. §102 requires that each and every limitation recited by the claim be found in a single prior art reference, a condition which is not present here for at least claims 1, 3, 8, 15, and 22.¹ If the rejections are maintained, a more detailed explanation setting forth all limitations of the claims and the corresponding disclosures in the prior art would be appreciated, more particularly, a specific indication of how *Everitt* provides a grill resting upon and extending across the peripheral edge of the backbox is requested (and where/how *Everitt*'s grill is regarded as being crimped about its backbox, and/or attached to its speaker).²

Additionally, the following comments are provided to expedite processing of the application. It is also not seen how it would be obvious from the references of record, or the

¹ MPEP 2131. "To anticipate, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim" (*Brown v. 3M*, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001); see also *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); *Sandt Technology Ltd. v. Resco Metal and Plastics Corp.*, 60 USPQ2d 1091, 1094 (Fed. Cir. 2001)). In addition, the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention. *In re Paulsen*, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994); see also *In re Schreiber*, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

² "[I]t is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." *Ex parte Levy*, 17 USPQ2d 1461, 1462 (Bd. Pat. App. & Int. 1990), citing to *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984); see also MPEP 707.07(d); 37 CFR §1.104(c)(2).

ordinary knowledge of one of ordinary skill in the art, to obtain the claimed invention from *Everitt*. *Everitt* is intended to provide a speaker having modular construction with parts which are readily interfit to create the speaker enclosure (see, e.g., column 4 lines 29-35). If one then takes the perspective of an ordinary artisan in the field, and looks to the state of the art at the time the invention was made (while placing all knowledge of the invention out of mind), it is seen that there is nothing that would truly and objectively lead one to modify *Everitt* to place *Everitt*'s grill cloth 55 upon and about the peripheral edges of member 40, rather than about the baffle board 50, particularly since this would close member 40's front opening and thereby eliminate the rapid assembly/disassembly provided by the embodiments of *Everitt*: members 20 and 30, and baffle board 50, would no longer be insertable into the front opening of 40 (or would not be removable therefrom, unless the grill cloth 55 was removed first). Additionally, placing *Everitt*'s grill cloth 55 about the peripheral edges of member 40 would leave the edges of the grill cloth exposed about the exterior of the speaker, which would both be unsightly and would make the grill cloth more susceptible to accidental tearing off. Thus, one looking to improve *Everitt* would not place *Everitt*'s grill cloth 55 about the peripheral edges of member 40 since this modification would have no apparent benefit; most importantly, this modification has no benefit recognized and suggested by the prior art. See MPEP 2143.01 (subsection entitled "The Prior Art Must Suggest The Desirability Of The Claimed Invention"). Further, the modification would in fact be disadvantageous to *Everitt* because it would prohibit rapid assembly/disassembly. See MPEP 2143.01 (subsection entitled "The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose"). Thus, if the prior art is objectively reviewed without prior knowledge of the invention (i.e., without hindsight), it is seen that the teachings of the art do not lead one to the invention claimed.

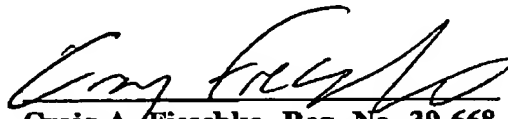
The same reasoning applies with regard to the limitation of claims 8, 15, and 22 regarding affixing the grill and the speaker: there is no apparent benefit to doing so in *Everitt*, nor is there any apparent means of even achieving effective affixment (since *Everitt*'s grill is made of cloth).

It is therefore submitted that the current claims are novel and unobvious in view of all art of record, and allowance of the claims is requested.

3. In Closing

If any questions regarding the application arise, please contact the undersigned attorney. Telephone calls related to this application are welcomed and encouraged. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

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